

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

8/1/2000/LA

The Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000 (Ordinance No. 1 of 2000), which has been promulgated by the Governor of Goa on 6-1-2000, is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 6th January, 2000.

THE GOA SALES TAX, LUXURY TAX AND ENTERTAINMENT TAX

(SETTLEMENT OF ARREARS) ORDINANCE, 2000

(Ordinance No. 1 of 2000)

Promulgated by the Governor of Goa in the Fiftieth Year of the Republic of India.

An Ordinance to provide for the expeditious enforcement of payment of arrears of tax and interest under the Sales Tax Laws, Luxury Tax Law and Entertainment Tax Law as in force in the State of Goa, by way of settlement.

Whereas, the Legislature of the State of Goa is not in session and the Governor of Goa is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by Clause (1) of Article 213 of the Constitution of India, the Governor of Goa is pleased to promulgate the following Ordinance, namely:—

1. *Short title, extent and commencement.*— (1) This Ordinance may be called the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— (1) In this Ordinance, unless the context otherwise requires,—

(a) “arrear of tax, penalty or interest” means,—

(i) tax, by whatever name called, payable by an assessee upon assessment under the relevant Act; or

(ii) penalty imposed upon an assessee for default in furnishing returns and in payment of tax in accordance with the provisions of the relevant Act; or

(iii) interest payable by an assessee under the relevant Act,—

(A) as determined for delayed payment or non-payment of tax before assessment; or

(B) as accrued in respect of non-payment of tax or short payment of tax after assessment,

which, as the case may be, is in dispute in any review or appeal or revision pending before the reviewing authority, appellate authority or revisional authority or tribunal, as the case may be, on the date of coming into force of this Ordinance, relating to the period upto 31-3-1999.

Explanation .—

For the purposes of this Ordinance, the interest referred to in item (B) of sub-clause (iii) of clause (a) of sub-section (1) of section 2 shall be deemed to be an arrear of interest in dispute;

(b) "applicant" means a "dealer" or "hotelier" or "proprietor" as defined in the relevant Acts and includes the legal heirs, successors, assignees or nominees of such dealer, hotelier or proprietor, where the business has ceased to exist or has been discontinued prior to the date of coming into force of this Ordinance;

(c) "designated authority" means the authority specified in section 3;

(d) "Government" means the Government of Goa;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "relevant Act" means,—

(i) the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(ii) the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Act 17 of 1988);

(iii) the Central Sales Tax Act, 1956 (Act 74 of 1956);

(iv) the Goa, Daman and Diu Entertainment Tax Act, 1964 (Act 2 of 1964) and includes the rules made, or notifications issued, under the Acts referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv).

(2) Unless there is anything repugnant to the subject or context, all expressions used in this Ordinance, which are not defined, but defined or used in the relevant Act, shall have the same meaning as assigned in the relevant Act.

3. *Designated authority.*— For carrying out the purposes of this Ordinance, the authorities referred to in section 3(2)(aa) of the Goa Sales Tax Act, 1964 (Act 4 of 1964), or such other authority as the Commissioner may, under the relevant Act, by order made in that behalf nominate, shall be the designated authority and such authority shall have jurisdiction over such area or areas as exercised by it under the relevant Act.

4. *Eligibility for settlement.*— (1) Subject to the other provisions of this Ordinance, an applicant shall be eligible to make an application for settlement of arrears of tax, penalty or interest in respect of any period of assessment ending on 31-3-1999 for which an assessment has been made under the relevant Act or review application or appeal or revision under the relevant Act has been filed on or before the date of coming into force of this Ordinance before any reviewing authority, appellate authority or revisional authority, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), an applicant shall be eligible to make an application under section 5, if, for any reason, the applicant has not filed a return/revised return prescribed under the relevant Act for any return period upto 31-3-1999 and he does so by paying tax payable by him under the relevant Act, for such return period on or before 15-3-2000.

5. *Application by the applicant.*— (1) An application for the purpose of section 4 shall be made to the designated authority by an applicant in the form specified in Part I of the Schedule appended hereto, on or before the 15th day of March, 2000, or by such later date as the Government may, by notification in the Official Gazette, specify and the designated authority shall verify the correctness of the particulars furnished in the application with reference to connected records, available with the assessing authority, appellate authority or any other authority with whom such records may be available, as the case may be.

(2) An applicant shall make a separate application for each year under each of the relevant Acts.

(3) The applicant shall forward a copy of the application made under sub-section (1) to the reviewing authority or the appellate authority or the revisional authority before whom the review, the appeal or revision, as the case may be, is pending, within fifteen days from the date of making such application before the designated authority.

6. *Determination of amount payable by the applicant.*— (1) Where the designated authority is satisfied about the correctness of the particulars set forth in the application made by an applicant, he shall determine, by an order in writing, the amount payable by the applicant for the purpose of settlement of arrear of tax, penalty or interest at the rates specified in section 7:

Provided that the amount payable by an applicant as determined under this sub-section shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be rounded off to the next rupee, and if such part is less than fifty paise, it shall be ignored.

(2) After the amount payable by an applicant is determined under sub-section (1) by the designated authority, the applicant shall pay the amount payable within seven days from the date of receipt of the intimation, by challan, prescribed under the relevant Act and submit a receipted copy thereof to the designated authority. The intimation to the applicant shall be in the form specified in Part II of the Schedule appended hereto.

7. *Rate applicable in determining the amount payable.*— (1) The amount payable by an applicant for settlement of arrears under this Ordinance shall be determined under sub-section (1) of section 6,—

(a) where the tax arrears have arisen, on account of any order of assessment relating to periods ending 31-3-1999 and where no review petition, or no appeal or no revision is preferred upto the date of coming into force of this Ordinance, at the rate of 33^{1/3} % of the arrears of tax and interest only and any penalty levied thereof shall be waived; or

(b) where the arrears of tax, penalty or interest is disputed in a review application or in appeal or in revision, as the case may be, filed on or before the date of coming into force of this Ordinance, relating to the assessment periods ending 31-3-1999, at the rate of 25% of the arrears of tax and interest only and the penalty levied shall be waived; or

(c) where the applicant has filed return in terms of section 4(2), full amount of arrears of tax shall be payable in accordance with the relevant Act. Full amount of interest payable for the return period and the penalty thereof shall be waived.

(2) The interest as defined under section 2(1)(a)(iii)(B) in all cases covered under clauses (a) or (b) of sub-section (1) shall be treated as waived.

8. *Settlement of arrears and issue of certificate of settlement.*— (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay in terms of determination under section 6, shall issue a certificate of settlement for such arrears, in such form as specified in Part III of the Schedule appended hereto, to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of such arrear tax, penalty or interest to which he was liable before settlement.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute, on the ground that no question of settlement arises or rectify or amend a certificate of settlement issued under sub-section (1):

Provided that no order adversely affecting the applicant shall be passed without giving to the applicant any reasonable opportunity of being heard.

Provided further that appeal against the order of the designated authority shall lie with the Commissioner and such appeal shall be made within a period of thirty days from the date of such order.

9. *Bar on re-opening of settled cases.*— A certificate of settlement issued under sub-section (1) of section 8 shall be conclusive as to the settlement to which the dispute relates, and no matter covered by such certificate of settlement shall be re-opened in any proceeding or review or revision, or in any other proceeding, under the relevant Act.

10. *Withdrawal of review application, appeal and revision.*— (1) Notwithstanding anything to the contrary contained in any provision in the relevant Acts, the review, appeal or revision for any period pending before the reviewing, appellate or the revisional authority, as the case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 8, shall be deemed to have been withdrawn by the applicant from the date of making of the application under sub-section (1) of section 5.

11. *Reviewing, appellate and revisional authority not to proceed in certain cases.*— No assessing authority, reviewing authority, appellate authority or revisional authority shall proceed to decide any assessment, review, appeal or revision under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5:

Provided that such authority shall proceed to decide such assessment, review, appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 8.

12. *Revocation of certificate of settlement.*— (1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Ordinance by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may within one year of date of such certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 8.

(2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provisions of section 9 or section 10, stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears of tax, penalty or interest in dispute in such appeal or revision has ever been made under this Ordinance.

13. *Information to be sent to the authorities under the relevant Act.*— The designated authority shall keep the assessing authority, the reviewing authority, the appellate authority or the revisional authority, who, for the time being, has jurisdiction over the applicant under the relevant Act, informed, *inter alia*, of—

(a) making of an application by an applicant under section 5;

(b) passing of any order by the designated authority under section 8; or

(c) revocation of any certificate of settlement under section 12, in such form and manner, and within such time, as may be prescribed.

14. *No refund of amount paid under the Ordinance.*— Any amount paid by an applicant under section 6 shall not be refundable under any circumstances:

Provided that in the case of revocation of a certificate of settlement in accordance with section 12, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

15. *Power to make rules.*— The Government may, by notification in the Official Gazette, make rules, with prospective or retrospective effect, for carrying out the purposes of this Ordinance, and such rules may provide for all or any of the matter which, under any provision of this Ordinance, is required to be prescribed or to be provided by rules.

16. *The information disclosed in the application under this Ordinance to be confidential.*— (1) All particulars contained in any application made under this Ordinance shall be treated as confidential, save any disclosure made for the purpose of any investigation or prosecution under the Indian Penal Code or any other enactment for the time being in force or of such facts to an Officer of Central Government or any State or Union territory as may be necessary for verification of such facts or for the purpose of enabling that Government to levy or realise any tax imposed by it.

(2) Save as provided in sub-section (1), any employee of the Government who contravenes the provisions referred to in that sub-section shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

17. *Power to remove difficulties.*— If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Government may, by order, published in the Official Gazette as the occasion may require, do anything which appears to it to be necessary to remove the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Ordinance.

SCHEDULE

PART I

(See section 5)

Application for settlement of arrear of tax, penalty or interest under section 5 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000.

To,
The Designated Authority,

I, proprietor/
/Partner/karta/Managing Director/Director/principal officer/duly authorized officer/ President/ Secretary/legal heir/successor/assignee or nominee/myself/on behalf of an applicant, being eligible under section 4 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000, hereby apply for settlement of arrears of tax, penalty or interest.

I furnish hereunder the requisite particulars:-

- (1). Name of the applicant (here mention the name of the proprietor/partner/ company/society, etc.)
- (2). Trade name of the business
- (3). Address of the only/principal place of business
- (4). Full postal address at which communication to be made
- (5). Number of the certificate of registration under the relevant Act to which the application relates.
- (6)(i) Period in respect of assessment of tax/imposition of penalty/determination of interest to which the application relates against which no appeal is filed
- (ii) Arrears of tax
Arrears of penalty
Arrears of Interest.

- (7). Particulars of the appeal or revision pending —
 - (i) (a) the designation of the appellate/ revisional authority before whom the appeal/revision is pending.
 - (b) the date of presentation of the appeal/ revision so pending before such authority.
 - (c) the appeal or revision case No.
- (8)(i) Return period for which return is filed under section 4(2)
- (ii) Arrears of tax
Arrears of Penalty
Arrears of Interest

VERIFICATION

I, solemnly declare that to the best of my knowledge and belief—

(a) the particulars and information given in this application are correct and complete,

(b) the amount of arrear of tax, interest or penalty shown hereinabove are truly stated and relate to the relevant period as mentioned in this application; and

(c) I/the applicant am/is not otherwise ineligible for making this application in terms of the provisions of the Ordinance.

(Signature)

(Name of the signatory in full)

(Status in relation to the applicant)

Place:

Date :

PART II

(See section 6)

Intimation to the applicant under sub-section (2) of section 6 given by the Designated authority.

To

.....(applicant)
who is carrying on/used to carry on business under the trade name of at
..... (address)
Certificate of Registration No.
under
(name of the relevant Act).

With reference to your application in Part I, dated for settlement of arrear of tax, interest or penalty relating to the period..... received in my office on(date), you are hereby informed that the amount payable for settlement of arrears of tax or interest has been determined by me under sub-section (1) of section 6 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000, as under:-

(1) Cases covered under section 4(1)

- | | |
|--------------------------------------|---------|
| (i) Arrears of tax in dispute | Rs..... |
| (ii) Arrears of interest in dispute | Rs..... |
| (iii) Arrears of penalty in dispute | Rs..... |
| (iv) Amount determined to be payable | Rs..... |

(2) Cases covered under section 4(2)

- | | |
|---------------------------|---------|
| (i) Amount of tax payable | Rs..... |
| (ii) Amount of tax paid | Rs..... |
| (iii) Balance, if any | Rs..... |

Now, you are hereby directed to pay the sum of Rs.....(in figures) (Rupees.....)(in words) in appropriate Government Treasury and furnish a copy of the duly receipted challan showing payment of the amount before the undersigned, whereupon the dispute shall be settled and, accordingly, a certificate of settlement for such dispute/ waiver of penalty and interest shall be issued in your favour.

Date: Signature:.....

(Seal) Designation:.....

.....
(Appropriate designated authority)

PART III
(See section 8)

Certificate of settlement issued under sub-section (1) of section 8 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000.

On the basis of an application made by(name of the applicant), who is carrying on/used to carry on the business in the trade name ofat.....(address) and who is/was holding certificate of registration No.....under the(name of the relevant Act), it is certified that:

* (1) Arrears of tax, penalty or interest arisen on account of the order of assessment for the period fromto..... against which, no appeal is preferred upto....., has been settled under sub-section (1) of section 8 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000.

* (2) Arrear of tax, penalty or interest for the assessment period which was pending in appeal/revision before

(name of the appropriate appellate/revisonal authority), being appeal/ revision case No... .., has been settled under sub-section (1) of section 8 of the Goa Sales Tax, Luxury Tax and Entertainment Tax (Settlement of Arrears) Ordinance, 2000.

* (3) The interest payable on the amount of tax of Rs..... in respect of the period from to is treated as waived alongwith penalty.

ISSUED this day of

Signature.....

Designation :.....

.....
(Appropriate designated authority)

(Seal)

*Strike out whichever is not applicable.

MOHD. FAZAL

Governor of Goa.

Place: Goa (Raj Bhavan).

Date: 6-1-2000.